

ORDINANCE NO.: G-2015-3 **AMENDED** INTRODUCED BY:

LINDSEY  
Committee of Public Works

**AN ORDINANCE VACATING A PORTION OF AN UNNAMED 12 FOOT WIDE ALLEY  
LOCATED EAST OF 1331 WEST FRANKLIN STREET IN THE CITY OF EVANSVILLE,  
VANDERBURGH COUNTY, INDIANA**

BE IT ORDAINED by the Common Council of the City of Evansville, Indiana, as follows, to wit:

**Section 1.** That pursuant to EMC Section 12.05.450, a sworn petition was presented to the Common Council of the City of Evansville, requesting that a portion of the unnamed 12 foot wide public alley described in section 3 below be vacated by the City of Evansville.

**Section 2.** That after due and proper notice a timely public hearing was convened by the Common Council, at which time all interested persons were permitted to address the Common Council regarding said vacation.

**Section 3.** That the Common Council of the City of Evansville, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of that part of the unnamed 12 foot wide public alley described as follows, and further indicated by the words "To Be Vacated" on the drawing hereto attached, which is hereby made a part of this Ordinance:

All that portion of a 12 foot un-platted alley lying West of Lot eight (8) and East of Lots nine (9) and ten (10) and the South Half of Lot eleven (11) in Block seventy-five (75) in Lamasco, now a part of the city of Evansville, as per plat thereof, recorded in Deed Record "E", pages 372, 373 and 374 and transcribed of record in Plat Book "B", pages 6 and 7, and re-transcribed of record in Plat Book "E" pages 60 and 61, all in the office of the Recorder of Vanderburgh County, Indiana and further described as follows for clarification:

Beginning at a point in the South line of said Lot nine (9) lying 6.0 feet West of the original Southeast corner of said Lot at the Southwest corner of an un-platted alley; thence along the West line of said alley and parallel with the East line of said Lots nine (9), ten (10) and eleven (11)

1<sup>st</sup>: North 125.00 feet; thence

2<sup>nd</sup>: East 12.00 feet to a point on the East line of said un-platted alley, also being the North line of said Lot eight (8), 6.00 feet East of the original Northwest corner of said Lot; thence

**FILED**

**FEB 05 2015**

*Anna Winkler*  
CITY CLERK

along the East line of said alley and parallel with the West line of said Lot eight (8)

3<sup>rd</sup>: South 125.00 feet to the South line of said Lot eight (8), 6.00 feet East of the original Southwest corner of said Lot, also being on the North line of Franklin Street; thence along said the North line of Franklin Street

4<sup>th</sup>: West 12.00 feet to the point of beginning.

**Section 4.** The vacated alley described above will remain subject to the following easements:

- 4.1. an access easement in favor of AT&T Indiana covering existing facilities lying within the legal description of the area to be vacated;
- 4.2. an electric line easement in favor of Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana ("Vectren") with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across the area to be vacated, together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. Vectren also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within the area to be vacated, and the right to trim or remove, at Vectren's sole discretion, any and all trees located outside the area to be vacated that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from the area to be vacated; and
- 4.3. a twelve (12) foot easement in favor of SIGECOM/WOW for placement and maintenance of telecommunication facilities that lies within the area to be vacated.

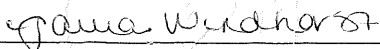
Therefore, the Common Council of the City of Evansville, does hereby find that the above-described portion of public alley is no longer required for public use and that the public interest will be served by such vacation, and the Common Council of the city of Evansville does hereby vacate that portion of the public alley described in section 3 above, subject to the other terms and conditions as stated in this Ordinance.

**PASSED BY THE COMMON COUNCIL** of the City of Evansville, Indiana on the 23 day of February, 2015, and on said day signed by the President of the Common Council and attested by the City Clerk.



\_\_\_\_\_  
President, Common Council

**ATTEST:**



\_\_\_\_\_  
City Clerk

**PRESENTED** by me, the undersigned City Clerk of the City of Evansville, Indiana, to the Mayor of said City, this 25 day of February, 2015 at 1:30 o'clock P.m., for his consideration and action thereon.

Gaila Windhorst  
City Clerk of the City of Evansville, Indiana

**HAVING EXAMINED** the foregoing Ordinance, I do now, as Mayor of the said City of Evansville, Indiana, approve said Ordinance and return the same to the City Clerk, this 25th day of FEBRUARY, 2015 at 8:00 o'clock P.m.

Ray Quince  
Mayor of the City of Evansville, Indiana

**APPROVED AS TO FORM:**

By:

Ted Ziener  
Ted Ziener, Corporation Counsel

Mailing Address of Petitioner

Amy's Lamasco Bar, LLC  
1331 West Franklin Street  
Evansville, Indiana 47710

This instrument was prepared by Krista B. Lockyear, Jackson Kelly PLLC, 221 N.W. Fifth Street, P.O. Box 1507, Evansville, IN 47706-1507, Telephone 812.422.9444. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Krista B. Lockyear

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

**VERIFIED PETITION FOR VACATION OF AN UNNAMED 12 FOOT WIDE ALLEY  
LOCATED EAST OF 1331 WEST FRANKLIN STREET IN THE CITY OF EVANSVILLE,  
VANDERBURGH COUNTY, INDIANA**

Amy's Lamasco Bar, LLC, petitions the Common Council of the City of Evansville under section 12.05.450 of the Municipal Code of Evansville for the vacation of an unnamed 12 foot wide alley located east of 1331 West Franklin Street, in the City of Evansville, Indiana, and in support of the petition shows as follows:

1. PETITIONER:

- 1.1 The Petitioner is Amy's Lamasco Bar, LLC, an Indiana limited liability company, with its principal place of business at 1331 West Franklin Street, Evansville, IN 47710 ("Petitioner"). The sole officer and director of Amy's Lamasco Bar, LLC, is Amy Word.
- 1.2 Petitioner is represented by counsel, Krista B. Lockyear, of Jackson Kelly, PLLC, 221 N.W. 5<sup>th</sup> Street, Evansville, Indiana.

## 2. THE CIRCUMSTANCES:

- 2.1 Petitioner is the owner of certain real estate commonly described as 1331 West Franklin Street (“Petitioner’s Real Estate”) which lies on both sides of the public way to be vacated.
- 2.2 Petitioner desires to vacate that part of the public way located within Petitioner’s Real Estate.

3. LEGAL DESCRIPTION OF THE PUBLIC UTILITY EASEMENT PROPOSED TO BE VACATED:

- 3.1 The legal description of the certain public way proposed to be vacated, certified by a land surveyor registered in the State of Indiana, is attached hereto as Exhibit "A."

4. ADJACENT OWNERS:

- 4.1 The names, addresses and zip codes of all owners of land within 200 feet of the public way proposed to be vacated and the name, address and zip code of the neighborhood association whose boundaries lie within 200 feet of the public way to be vacated are attached hereto as Exhibit "B."

5. DRAWINGS:

- 5.1 A site plan, certified by a land surveyor registered in the State of Indiana, depicting the public way proposed to be vacated is set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

FILED

FEB 05 2015

*Anna Widnors*  
CITY CLERK

6. EASEMENTS:

- 6.1 The following utilities have consented to the proposed vacation and do *not* require easements, as evidenced by their letters attached hereto as Exhibit “D.”
- (a) Time Warner Cable
  - (b) Evansville Water and Sewer Utility
- 6.2 The following utilities have consented to the proposed vacation provided they are granted easement within the vacated public utility easements, as evidenced by their letters attached hereto as Exhibit “E.”
- (a) AT&T
  - (b) SIGECOM/WOW
  - (c) Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana

WHEREFORE, Petitioner respectfully prays that the Board of Commissioners of Warrick County, Indiana, take all the necessary steps to properly vacate said public right-of-way in the manner as by law now provided on this 22 day of January, 2015.

Krista B. Lockyear, attorney for  
Amy's Lamasco Bar, LLC

STATE OF INDIANA )  
 ) SS:  
COUNTY OF VANDERBURGH )

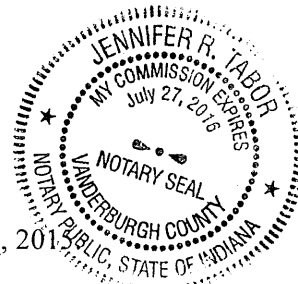
Signed and sworn to before me, a notary public, on this 22nd day of January, 201

Jennifer R. Tabov  
Notary Public

Vanderburgh County, Indiana  
County of Residence

Jennifer R. Tabor  
Printed Name

July 27, 2016  
Commission Expiration Date

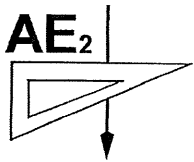


This instrument was prepared by Krista B. Lockyear, Jackson Kelly, PLLC, 221 N.W. Fifth Street, P.O. Box 1507, Evansville, IN 47706-1507, Telephone 812.422.9444.

**Exhibit A**

**Legal Description of Public Way to be Vacated**

See attached.



# ANDY EASLEY ENGINEERING, INC.

1133 WEST MILL ROAD, SUITE 205  
EVANSVILLE, INDIANA 47710

CIVIL ENGINEERS  
LAND SURVEYORS

TELEPHONE (812) 424-2481

FACSIMILE (812) 425-3463

www.easleyengineering.com

**CLIENT:** Jackson Kelly, PLLC

**PROPERTY:** Alleyway lying East of 1331 W. Franklin St. (Lamasco Bar)

**PARCEL:** Alley to vacated in Block 75 of Lamasco


## VACATION DESCRIPTION

All that portion of a 12 foot un-platted alley lying West of Lot eight (8) and East of Lots nine (9) and ten (10) and the South Half of Lot eleven (11) in Block seventy-five (75) in Lamasco, now a part of the city of Evansville, as per plat thereof, recorded in Deed Record "E", pages 372, 373 and 374 and transcribed of record in Plat Book "B", pages 6 and 7, and re-transcribed of record in Plat Book "E" pages 60 and 61, all in the office of the Recorder of Vanderburgh County, Indiana and further described as follows for clarification:

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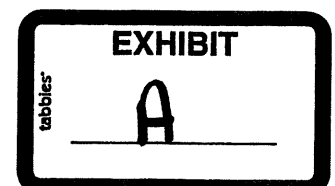
- 1<sup>st</sup>: North 125.00 feet; thence
- 2<sup>nd</sup>: East 12.00 feet to a point on the East line of said un-platted alley, also being the North line of said Lot eight (8), 6.00 feet East of the original Northwest corner of said Lot; thence along the East line of said alley and parallel with the West line of said Lot eight (8)
- 3<sup>rd</sup>: South 125.00 feet to the South line of said Lot eight (8), 6.00 feet East of the original Southwest corner of said Lot, also being on the North line of Franklin Street; thence along said the North line of Franklin Street
- 4<sup>th</sup>: West 12.00 feet to the point of beginning.



  
DONALD E. GRIES, RLS  
INDIANA REG. NO. LS29900003

C:\PROJECTS\WPDON\9828\jackson.kelley.vac.LD.wpd

January 8, 2015





**Exhibit B**

**Listing of Property Owners within 200 feet**

Joseph & Joy Uduchi  
9016 Greystone Court  
Evansville, IN 47712  
82-05-24-029-069.007-029

Sterling United Federal Credit Union  
1330 W Franklin St  
Evansville, IN 47710  
82-05-24-029-063.014-029

Sheet Metal Workers Local #20 JATC  
1301 W Franklin St  
Evansville, IN 47710  
82-05-24-029-069.005-029

Lincoln Plaza, LLC  
PO Box 965  
Evansville, IN 47706  
82-05-24-029-063.001-029

Hartford Bakery Inc.  
500 N Fulton Ave  
Evansville, IN 47710  
82-05-24-029-069.001-029  
82-05-24-029-069.016-029  
82-05-24-029-069.015-029  
82-05-24-029-069.014-029  
82-05-24-029-069.013-029  
82-05-24-029-069.012-029  
82-05-24-029-069.011-029

CHAIN Neighborhood Association  
1101 Cedar Street  
Evansville, IN 47710

Amy Word  
7386 Hillside Dr  
Newburgh, IN 47630  
82-05-24-029-069.010-029  
82-05-24-029-069.008-029

John L Craddock, Jr.  
David W. Craddock  
1401 W Franklin St  
Evansville, IN 47712  
82-05-24-029-082.002-029

Thomas J Muensterman  
Steven Muensterman  
1400 W Franklin St  
Evansville, IN 47710  
82-05-24-029-066.001-029

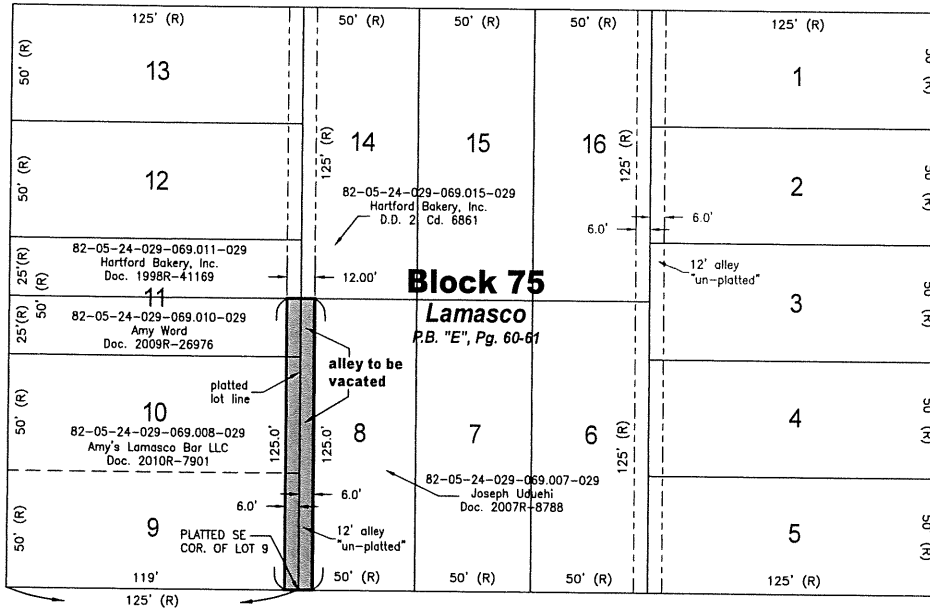
**Exhibit C**

**Site Plan**

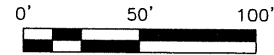
See attached.

Michigan St.  
(80' r/w - vacated)

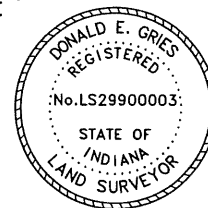
Sixth Ave.  
(80' r/w)



Franklin St.  
(120' r/w)



Fifth Ave.  
(80' r/w)

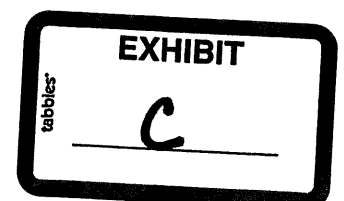


*Donald E. Gries*

CLIENT: Jackson Kelly, PLLC  
LOCATION: 1331 W. Franklin  
PROJECT: Vacation Exhibit  
COUNTY: Vanderburgh

**ANDY EASLEY ENGINEERING**  
LAND SURVEYING  
CIVIL ENGINEERING  
1133 W. MILL ROAD  
EVANSVILLE, INDIANA 47710

DRAWN BY: JRF  
DATE: 07/08/15  
DWG. NO.: S-9828  
APPROVED BY: DEG



**Exhibit D**

**Utility Letters – No Easement**

See Attached.

1900 N. Fares Ave  
Evansville, Indiana 47711  
Ph: (812)253-2755  
Fax: (812) 909-0293  
Cell: (812) 305-8348



January 7, 2015

Amy Word  
1327 W Franklin St  
Evansville, IN 47711

RE: Vacation of Right-of-Way

Dear Ms. Word,

In reference to your request to do a study regarding the above proposed vacation, Time Warner Cable has conducted a study and found that we do not have facilities along the proposed vacate area.

Time Warner Cable does not oppose to the vacation of the above mentioned area.

If you have any questions or require additional information please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Daryl Hulsey".

Daryl Hulsey  
Construction Technician  
Time Warner Cable

EXHIBIT

tabbles

1



LLOYD WINNECKE  
MAYOR

## EVANSVILLE WATER & SEWER UTILITY

ALLEN R. MOUNTS  
DIRECTOR

1 NW Martin Luther King Blvd. Room 104 • Evansville, Indiana 47708  
P O Box 19, Evansville, Indiana 47740-0001  
(812) 436-7846 • FAX (812) 436-7863 • TDD (812) 436-7864

January 20, 2015

Ms. Amy Word  
Lamasco Bar and Grill  
1331 W. Franklin Street  
Evansville, IN 47710

Re.: Proposed Vacation – Alley between 1331 and 1327 W. Franklin Street

Ms. Word,

This letter is in response to your request to vacate alleys or portions of alleys as referenced above. The Evansville Water and Sewer Utility (EWSU) have the following requirements:

The EWSU has no reservation to the vacation of these alleys.

If you have any questions, please call me at 421-2130 x2228.

Sincerely,

  
Michael D. Labitzke, PE  
Deputy Director of Utilities - Engineering

**Exhibit E**

**Utility Letters –Easement**

See Attached.



AT&T Indiana  
134 NW Sixth Street  
Evansville, IN 47708

T: 812-464-6055  
F: 812-464-6120  
www.att.com

January 5, 2015

Amy Word  
Lamasco Bar and Grill  
1331 W Franklin St  
Evansville, IN 47710

Re: Vacation a portion of an alley running south to north between Lamasco L9 and L10 BL 75, Pigeon Township, with physical address of 1331 W. Franklin St

Dear Ms. Word,

I have reviewed your request for the vacation of right-of-way for the north / south alley north of W Franklin St, between Lamasco L9 and L10 BL 75, Pigeon Township as indicated on the drawings sent to AT&T on 12/31/14.

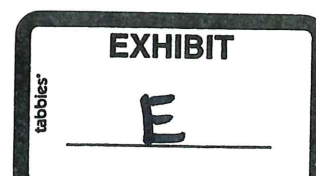
AT&T does have existing facilities consisting of poles and aerial cable within the indicated alley. AT&T's facilities will need to remain in place, meaning the right-of-way can only be vacated after an easement is granted in favor of AT&T covering the existing facilities, along with ingress/egress to allow access to these facilities. AT&T would not object to an encroachment upon the right-of-way, as long as access to AT&T's facilities is not obstructed.

If you will require the relocation of these facilities please contact the AT&T Custom Work Order Group (1/888/901/2779) to obtain a cost estimate.

Please let me know if you have any questions or concerns.

Thanks,

Andy Folz  
AT&T Engineering Department  
Office: 812-464-6055  
Email: af1896@att.com







It's that kind of experience.

January 13, 2015

Amy Word  
1331 W. Franklin St.  
Evansville, IN. 47710

Attn: Bret Sermersheim

**RE: Petition for Vacation – 12' Alley between 1327 and 1331 W. Franklin Street.**

Dear Amy Word,

The SIGECOM/WOW Outside Plant Engineering department reviewed the said alley way proposed for vacation West of Log eight (8) and East of Lots nine (9) and ten (10) and the South Half of Lot eleven (11) in Block seventy-six (75) in Lamasco, now a part of the city of Evansville, as per plat thereof, recorded in Deed Record "E" pages 372, 373, and 374 and transcribed of record in Plat Book "B", pages 6 and 7, and re-transcribed of record in Plat Book "E" pages 60 and 61, all in the office of the Recorder of Vanderburgh County, Indiana.

As a result of these findings, SIGECOM/WOW does not object to the proposed vacation and will need to retain a 12 foot easement granted in its favor for placement and maintenance of telecommunication facilities that lies within this said vacation petition. If utilities are requested to be relocated SIGECOM/WOW will relocate granting a mutually agreed upon cost reimbursement for the SIGECOM/WOW facilities located within the subject right-of-way area.

This letter granted by SIGECOM/WOW for conditional vacation is valid for one hundred and eighty (180) days.

Please contact my office should you have any questions or need any additional information.

Sincerely,

Rick Bowen  
Construction Engineer  
SIGECOM/WOW  
812-437-0395  
rick\_bowen@wideopenwest.com



Vectren Corporation  
P.O. Box 209  
Evansville, IN 47702-0209

January 15, 2015

Amy Word  
Lamasco Bar and Grill  
1331 W Franklin Street  
Evansville, IN 47710

Re: Petition to Vacate a 12' public alley running North/South in Block 75 of Lamasco City of Evansville, Vanderburgh County, IN and further shown on the attached exhibits.

Petitioner: Amy Word, Owner of Lamasco Bar and Grill

Dear Mrs. Word:

Engineering representatives for Southern Indiana Gas and Electric Company, Inc. doing business as Vectren Energy Delivery of Indiana ("VEDI") have researched the above location requested for vacation and there are currently existing electric distribution facilities within the subject right of way. Therefore, the vacation request should include the following language to reserve our rights.

Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana, hereinafter referred to as Company reserves the following easement rights:

Electric line:

An easement with the right to construct, inspect, maintain, operate, repair, alter, relocate, enlarge, rebuild and remove one or more electric lines above or below ground, whether facilities are above or below ground, together with all appurtenances and appliances, fixtures or equipment as may be convenient or necessary for the transmission of electric energy, upon, over, under and across said strips of land, as shown on the attached drawing, made a part hereof, and marked "Exhibit A", together with the right of ingress and egress over the lands to and from said facilities in the exercise of the rights herein granted. The Company also reserves the right to trim or remove, at Company's sole discretion, any and all trees located within said strips of land, and the right to trim or remove, at Company's sole discretion, any and all trees located outside said strip of land that are of such height that in falling directly to the ground they could come in contact with said above ground facilities, and the right to remove brush or other obstructions from said strip of land.

The above rights must be reserved in the ordinance for Southern Indiana Gas and Electric Company/Vectren to approve the said vacation.

Please forward to my attention a copy of the recorded ordinance upon passing for our records.

Sincerely,

Colby Morris  
Land Services, Right of Way Agent  
Vectren Energy Delivery of Indiana  
(812) 491-4785